

The Honorable Thomas S. Zilly

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

BARRY LONG,

Plaintiff,

vs.

LIVE NATION WORLDWIDE, INC., D/B/A
TICKETMASTER,

Defendants.

CAUSE NO. 2:16-cv-01961-TSZ

UPDATED JOINT STATUS REPORT

The parties, through their counsel, pursuant to this Court's order, LR 16 and 26, and FRCP 26(f), hereby present this Joint Status Report and Discovery Plan.

1. Statement of nature and complexity of the case.

This is a disability rights case involving both federal civil rights and state tort claims, arising out of alleged disability discrimination in ticket sales for accessible seating at Century Link Field in Seattle. This case is relatively straightforward and non-complex.

2. Proposed deadline for joining additional parties.

The parties do not anticipate joining additional parties.

3. Full Time Magistrate Judge.

The parties do not consent to a magistrate judge.

4. Discovery Plan.

1 A. The Fed. R. Civ. P. 26(f) conference took place on February 9, 2017. On
2 March 14, 2017, the Court issued a scheduling order with dates and deadlines for this case. The
3 parties hereby submit this updated joint status report pursuant to the Court's order dated July 23,
4 2018.

5 B. Plaintiff: In light of Defendants' newly-disclosed website changes, which
6 were disclosed following the discovery deadline, Plaintiffs anticipate that discovery will concern
7 procedures for ticket sales for accessible seating. Plaintiff does not anticipate the need to
8 conduct discovery in phases. Plaintiff proposes that discovery should be done according to the
9 following timeline:

10 1. Discovery Cutoff: (a) for requests for production of documents, the
11 deadline should be 120 days before trial; and (b) for depositions on liability and damages, the
12 deadline should be 90 days before trial;

13 2. Expert Disclosures and Discovery: (a) for initial expert disclosures,
14 the deadline should be 120 days before trial; and (b) for depositions of experts, the deadline
15 should be 90 days before trial;

16 3. Dispositive Motion Deadline: dispositive motions have already
17 been ruled upon; and

18 4. Number of Depositions: Plaintiff anticipates that limited written
19 discovery and possibly one FRCP 30(b)(6) deposition will be necessary.
20

21 Defendant: Defendant's position is that discovery is closed in this matter. In the
22 Court's scheduling order dated March 9, 2017, the Court set a discovery cutoff of November 20,
23 2017. That date has passed.
24

1 C. The parties do not anticipate the need for any orders specific to
2 electronically stored information and will work together to facilitate exchanging discovery
3 electronically where appropriate. Defendant believes discovery is closed.;

4 D. The parties do not currently anticipate any issues with privilege in
5 discovery but will discuss in good faith this District's pattern stipulation if any issues of privilege
6 arise Defendant believes discovery is closed.;

7 E. The parties will work in good faith to manage discovery so as to minimize
8 expenses, and are not currently aware of any limits on discovery that will be necessary
9 Defendant believes discovery is closed.;

10 F. The parties are not currently aware of other orders relating to discovery
11 that should be entered by the Court Defendant believes discovery is closed..

12 **5. Issues presented in LCR 26(f)(1).**

13 A. Both parties are amenable to further discussions concerning settlement.

14 B. The parties do not intend to engage in ADR. Both parties believe that the
15 case will be straightforward enough that if resolution is possible it will be possible for the parties
16 to reach agreement without formal ADR.

17 C. There are no related cases, to the best of the parties' knowledge.

18 D. The parties believe that the discovery in this matter will be straightforward
19 and not unduly burdensome on any party and do not anticipate the need for any orders limiting
20 discovery. Defendant believes discovery is closed.

21 E. The parties anticipate that discovery will be directed at determining the
22 procedures that Defendants use for ticket sales for accessible seating. Defendant believes
23 discovery is closed.
24

1 F. The parties stipulate that they will preserve discoverable information.
2 Defendant believes discovery is closed.

3 G. The parties do not anticipate any significant privilege issues but will work
4 together to resolve any issues that arise, likely through use of this District's pattern stipulation.
5 Defendant believes discovery is closed.

6 H. The parties do not anticipate any significant discovery of ESI. Defendant
7 believes discovery is closed.

8 I. The parties do not anticipate any significant discovery of ESI. Defendant
9 believes discovery is closed.

10 **6. Discovery Cutoff.**

11 In light of Defendants' surprise proffer of never-before produced evidence at the
12 summary judgment hearing, Plaintiff's position is that additional discovery is manifestly
13 necessary. Plaintiff proposes that that for requests for production of documents, the deadline
14 should be 120 days before trial; and for depositions on liability and damages, the deadline should
15 be 90 days before trial. For initial expert disclosures, the deadline should be 120 days before
16 trial; and for depositions of experts, the deadline should be 90 days before trial.

17 Defendant's position is that discovery is closed in this matter. In the Court's scheduling
18 order dated March 9, 2017, the Court set a discovery cutoff of November 20, 2017. That date
19 has passed.

20 **7. Bifurcation.**

21 The parties do not anticipate the need for bifurcation of any phase of the trial.

22 **8. Pretrial Statements/Order.**

1 The parties do not believe it is necessary to dispense with pretrial statements and the
2 pretrial order.

3 **9. Suggestions to Shorten or Simplify.**

4 This is a relatively straightforward and non-complex case; the parties have no suggestions
5 to further shorten or simplify the litigation.

6 **10. Trial Date.**

7 The parties propose a trial date of June 10, 2019.

8 **11. Need for Jury Trial.**

9 Defendant requests a trial by jury.

10 **12. Estimate of Number of Days for Trial.**

11 The parties estimate that the trial of this matter will take approximately 4-5 days.

12 **13. Trial Counsel Contact Information.**

13 For Plaintiffs:

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6 **14. Trial Date Complications.**

7 No complications with the trial date are foreseen at this time.

8 **15. Service.**

9 Service has been properly completed upon Defendants.

10 **16. Other Issues.**

11 In the Court's July 23, 2018 Order, the Court asked the parties to identify what issues
12 remain before the Court.

13 Defendant identifies the following issues:

14 1) Disputed facts exist concerning whether Defendant's changes to its website renders
15 Plaintiff's request for injunctive relief moot.

16 2) Disputed facts exist concerning whether the current version of its website is in use as
17 a response to Plaintiff's lawsuit.

18 3) Disputed facts exists concerning whether how the current website sorts tickets renders
19 the website inaccessible.

20 4) Disputed facts exist concerning whether the changes Plaintiff demands to the website
21 at issue are readily achievable, technically feasible, and/or structurally impractical.
22
23
24

1 5) Disputed facts exist concerning whether Plaintiff could have achieved the same level
2 of service by contacting Defendant directly through alternative and/or equivalent methods, such
3 as the telephone.

4 6) Disputed facts exist concerning whether Plaintiff has standing to obtain the injunctive
5 relief sought in this lawsuit.

6 7) Disputed facts exist concerning whether Plaintiff failed to name indispensable parties
7 to this lawsuit because Defendant does not control the accessibility and/or the information
8 concerning the accessibility of any given seating location.

9 8) Disputed facts exist concerning whether other third parties have a legal interest in the
10 manner in which tickets are sold to Seattle Seahawks games at Century Link Field.

11 9) Disputed facts exist whether Defendant has sole control over the design and
12 functionality of the website.

13 10) Disputed facts exist concerning whether there is a “nexus” between its website and a
14 physical place of public accommodation as required by the Ninth Circuit.

15 11) Disputed facts exist concerning whether Plaintiff was actually denied access to
16 attend a Seattle Seahawks game.

17 12) Disputed facts exist concerning whether Plaintiff was actually denied access to the
18 website for the purpose in which it was intended.

19 13) Disputed facts exist concerning whether any version of the website failed to provide
20 Plaintiff with sufficient information to meet his needs according to his particular disability.
21

22
23 Dated July 26, 2018.

24 Respectfully submitted,

_____/S/_____
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_____/S/_____
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